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VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

March 31, 2014

Bryan Wilson
River City Waste Recyclers, LLC
8940 Elder Creek Road
Sacramento, CA 95829

Gyan Kalwani
Bryan Wilson
River City Waste Recyclers, LLC
4221 Meadow Wood Ct.
El Dorado Hills, CA 95766

**Re: Notice of Violations and Intent to File Suit under the Federal Water
Pollution Control Act**

Dear Messrs. Wilson and Kalwani:

I am writing on behalf of California Sportfishing Protection Alliance ("CSPA") in regard to violations of the Clean Water Act (the "Act") that CSPA believes are occurring at the River City Waste Recyclers LLC's industrial facility located at 8940 Elder Creek Road in Sacramento, California ("Facility"). CSPA is a non-profit public benefit corporation dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of the San Joaquin River and other California waters. This letter is being sent to River City Waste Recyclers, LLC, Bryan Wilson, and Gyan Kalwani as the responsible owners, officers, or operators of the Facility (all recipients are hereinafter collectively referred to as "River City").

This letter addresses River City's unlawful discharge of pollutants from the Facility through channels that flow into Morrison Creek, which flows to the Sacramento River. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. CA S000001, State Water Resources Control Board ("State Board") Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter "General Permit"). The WDID identification number for the Facility listed on documents submitted to the California

Regional Water Quality Control Board, Central Valley Region ("Regional Board") is 5S34I023293. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA") and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, River City is hereby placed on formal notice by CSPA that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, CSPA intends to file suit in federal court against River City under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the General Permit. These violations are described more extensively below.

I. Background.

On August 8, 2011, after receiving a notice of violation from the Regional Board, River City submitted its Notice of Intent to Comply with the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity ("NOI") to the Regional Board. In its NOI, River City certifies that the Facility is classified under SIC codes 2499 (wood products, not elsewhere classified), and 5093 (processing, reclaiming, and wholesale distribution of scrap and waste materials). The State Board received and processed the NOI on August 15, 2011. The Facility collects and discharges storm water from its 3-acre, mostly paved industrial site through one outfall that indirectly discharges into Morrison Creek, that flow to the Sacramento River. On information and belief, CSPA alleges that all storm water discharges from the Facility contain storm water that is commingled with runoff from the Facility from areas where industrial processes occur. On information and belief, the Facility began operations on or about January 2011. To the extent the Facility was operating at an earlier date, this notice encompasses all rain dates, pollution discharges, and compliance with the General Permit requirements extending back to the initial date the Facility began any operations.

The Regional Board has identified beneficial uses of the Central Valley Region's waters and established water quality standards for the Sacramento River and its tributaries in "The Water Quality Control Plan (Basin Plan) for the California Regional Water Quality Control Board, Central Valley Region – The Sacramento River Basin and The San Joaquin River Basin," generally referred to as the Basin Plan. See http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr.pdf. The beneficial uses of the Sacramento River and its tributaries include, among others, water contact recreation, non-contact water recreation, municipal and domestic water supply, endangered and threatened species habitat, shellfish harvesting, and fish spawning. The non-contact water recreation use is defined as "[u]ses of water for recreational activities involving proximity to water, but where there is generally no

body contact with water, nor any likelihood of ingestion of water. These uses include, but are not limited to, picnicking, sunbathing, hiking, camping, boating, . . . hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities.” Basin Plan at II-1.00 – II-2.00. Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people’s use of the Sacramento River for contact and non-contact water recreation.

The Basin Plan establishes water quality standards for the Sacramento River and its tributaries. It includes a narrative toxicity standard which states that “[a]ll waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life.” *Id.* at III-8.01. It provides that “[w]ater shall not contain floating material in amounts that cause nuisance or adversely affect beneficial uses.” *Id.* at III-5.00. It provides that “[w]ater shall be free of discoloration that causes nuisance or adversely affects beneficial uses.” *Id.* It provides that “[w]aters shall not contain suspended materials in concentrations that cause nuisance or adversely affect beneficial uses.” *Id.* at III-7.00. The Basin Plan also prohibits the discharges of oil and grease, stating that “[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that cause nuisance, result in a visible film or coating on the surface of the water or on objects in the water, or otherwise adversely affect beneficial uses.” *Id.* at III-6.00. The Basin Plan provides that the pH shall not be depressed below 6.5 nor raised above 8.5. *Id.*

The Basin Plan also provides that “[a]t a minimum, [surface] water designated for use as domestic or municipal supply (MUN) shall not contain concentrations of chemical constituents in excess of the maximum contaminant levels (MCLs) specified in the following provisions of Title 22 of the California Code of Regulations, which are incorporated by reference into this plan: Tables 64431-A (Inorganic Chemicals) and 64431-B (Fluoride) of Section 64431, Table 64444-A (Organic Chemicals) of Section 64444, and Table 64449-A (Secondary Maximum Contaminant Levels [“SMCLs”]-Consumer Acceptance Limits) and 64449-B (Secondary Maximum Containment Levels-Ranges) of Section 64449. This incorporation-by-reference is prospective, including future changes to the incorporated provisions as the changes take effect. At a minimum, water designated for use as domestic or municipal supply (MUN) shall not contain lead in excess of 0.015 mg/l.” Basin Plan at III-3.00. Table 64449-A provides an SMCL for iron of 0.3 mg/L and for aluminum of 0.2 mg/L. Table 64431 provides an MCL for aluminum of 1 mg/L.

Table III-1 of the Basin Plan provides a water quality objective (“WQO”) for iron of 0.3 mg/L and for zinc of 0.1 mg/L.

The EPA has adopted freshwater numeric water quality standard for zinc of 0.120 mg/L (Criteria Maximum Concentration – “CMC” and Criteria Continuous Concentration – “CCC”) and for copper of 0.013 mg/L (CMC) and 0.009 mg/L (CCC). 65 Fed.Reg. 31712 (May 18, 2000) (California Toxics Rule).

The EPA has published benchmark levels as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology

economically achievable ("BAT") and best conventional pollutant control technology ("BCT"). The following benchmarks have been established for pollutants discharged by River City: total suspended solids ("TSS") – 100 mg/L, total organic carbon ("TOC") – 110 mg/L, aluminum – 0.75 mg/L, iron – 1.0 mg/L, copper 0.0056 – 0.0332 mg/L (0.0056 mg/L at a receiving water hardness of 25-50 mg/L), lead – 0.023 – 0.262 mg/L (0.023 mg/L at a receiving water hardness of 25-50 mg/L), and zinc – 0.05 – 0.26 mg/L (0.05 mg/L at a receiving water hardness of 25-50 mg/L).

II. Alleged Violations of the NPDES Permit.

The following sections document CSPA's allegations that River City has been discharging polluted storm water without BAT/BCT in violation of the General Permit and/or the Clean Water Act, without developing and implementing an adequate monitoring program and an adequate storm water pollution prevention plan, as well as failing to file true and correct copies of annual reports. Information available to CSPA indicates that despite the fact that the State Board received River City's NOI on August 15, 2011, the Facility had been in continuous operation at the present location since at least January 2011. Accordingly, on information and belief CSPA alleges that, prior to August 15, 2011, River City's ongoing discharges of aluminum, copper, iron, lead, specific conductivity, TOC, TSS, zinc, and storm water associated with industrial activity occurred without having obtained coverage or otherwise pursuant to the authority of a General Permit or an individual NPDES permit in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a).

Further, CSPA's investigation of the conditions at the Facility as well as River City's Annual Reports indicate that, prior to August 15, 2011, River City's ongoing discharges of aluminum, copper, iron, lead, specific conductivity, TOC, TSS, zinc, and storm water associated with industrial activity occurred without the application of BAT/BCT, without developing and without implementing an adequate monitoring program and an adequate storm water pollution prevention plan. Despite obtaining coverage under the General Permit on August 15, 2011, River City's unauthorized discharges of aluminum, copper, iron, lead, TOC, TSS, zinc, and storm water associated with industrial activity are continuing.

A. Discharges in Violation of the Permit

River City has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants

are TSS, O&G, pH, biochemical oxygen demand ("BOD"), and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the General Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

River City has discharged and continues to discharge storm water with unacceptable levels of aluminum, copper, iron, lead, TOC, TSS, zinc, and other pollutants in violation of the General Permit. River City's sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following discharges of pollutants from the Facility have contained concentrations of pollutants in excess of numeric water quality standards established in the Basin Plan and the California Toxics Rule. They have thus violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2), are evidence of ongoing violations of Effluent Limitation B(3) of the General Permit, and constitute unauthorized discharges of aluminum, copper, iron, lead, TOC, TSS, zinc, and storm water associated with industrial activity in violation of Section 301(a) of the CWA.

Date	Parameter	Observed Concentration	Basin Plan Water Quality Objective/EPA California Toxics Rule	Outfall (as identified by the Facility)
04/04/2013	Aluminum	9.2 mg/L	0.2 mg/L (SMCL) / 1 mg/L (MCL)	NW Outfall
10/22/2012	Aluminum	2.1 mg/L	0.2 mg/L (SMCL) / 1 mg/L (MCL)	NW Outfall

04/26/2012	Aluminum	3.1 mg/L	0.2 mg/L (SMCL) / 1 mg/L (MCL)	NW Outfall
04/04/2013	Copper	0.052 mg/L	0.013 mg/L	NW Outfall
10/22/2012	Copper	0.039 mg/L	0.013 mg/L	NW Outfall
04/26/2012	Copper	0.036 mg/L	0.013 mg/L	NW Outfall
03/14/2012	Copper	0.019 mg/L	0.013 mg/L	NW Outfall
04/04/2013	Iron	9.2 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	NW Outfall
10/22/2012	Iron	2.9 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	NW Outfall
04/26/2012	Iron	3.5 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	NW Outfall
04/04/2013	Lead	0.14 mg/L	0.015 mg/L	NW Outfall
10/22/2012	Lead	0.028 mg/L	0.015 mg/L	NW Outfall
04/04/2013	Zinc	0.29 mg/L	0.1 mg/L (WQO) / 0.12 mg/L (CMC)	NW Outfall
10/22/2012	Zinc	0.29 mg/L	0.1 mg/L (WQO) / 0.12 mg/L (CMC)	NW Outfall
04/26/2012	Zinc	0.29 mg/L	0.1 mg/L (WQO) / 0.12 mg/L (CMC)	NW Outfall

The information in the above table reflects data gathered from River City's self-monitoring during the 2011-2012 and 2012-2013 wet seasons. CSPA alleges since January, 2011, or when the facility began operations, and continuing through today, River City has discharged storm water contaminated with pollutants at levels that exceed one or more applicable water quality standards, including but not limited to each of the following:

- Aluminum – 0.2 mg/L (SMCL)
- Aluminum – 1 mg/L (MCL)
- Copper – 0.013 mg/L (CMC)
- Iron – 0.3 mg/L (Secondary MCL & Water Quality Objective)
- Lead – 0.015 mg/L (Water Quality Objective)
- Zinc – 0.12 mg/L (CMC)
- Zinc – 0.1 mg/L (Water Quality Objective)

The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2), are evidence of ongoing violations of Effluent Limitation B(3) of the General Permit and constitute unauthorized discharges of TSS, TOC, aluminum, iron, zinc, copper, lead, specific conductivity and storm water associated with industrial activity in violation of Section 301(a) of the CWA.

Date	Parameter	Observed Concentration	EPA Benchmark Value	Outfall (as identified by the Facility)
04/04/2013	Aluminum	9.2 mg/L	0.75 mg/L	NW Outfall
10/22/2012	Aluminum	2.1 mg/L	0.75 mg/L	NW Outfall
04/26/2012	Aluminum	3.1 mg/L	0.75 mg/L	NW Outfall
04/04/2013	Copper	0.052 mg/L	0.0056 mg/L*	NW Outfall
10/22/2012	Copper	0.039 mg/L	0.0056 mg/L*	NW Outfall
04/26/2012	Copper	0.036 mg/L	0.0056 mg/L*	NW Outfall
04/04/2013	Iron	9.2 mg/L	1.0 mg/L	NW Outfall
10/22/2012	Iron	2.9 mg/L	1.0 mg/L	NW Outfall
04/26/2012	Iron	3.5 mg/L	1.0 mg/L	NW Outfall
04/04/2013	Lead	0.14 mg/L	0.023 mg/L*	NW Outfall
10/22/2012	Lead	0.028 mg/L	0.023 mg/L*	NW Outfall
04/04/2013	Specific Conductance	660	200 µmho/cm (proposed)	NW Outfall
10/22/2012	Specific Conductance	750	200 µmho/cm (proposed)	NW Outfall
04/26/2012	Specific Conductance	520	200 µmho/cm (proposed)	NW Outfall
04/04/2013	Total Organic Carbon	120 mg/L	110 mg/L	NW Outfall
10/22/2012	Total Organic Carbon	190 mg/L	110 mg/L	NW Outfall
04/04/2013	Total Suspended Solids	260 mg/L	100 mg/L	NW Outfall
10/22/2012	Total Suspended Solids	210 mg/L	100 mg/L	NW Outfall
04/26/2012	Total Suspended Solids	140 mg/L	100 mg/L	NW Outfall
04/04/2013	Zinc	0.29 mg/L	0.05 mg/L*	NW Outfall
10/22/2012	Zinc	0.29 mg/L	0.05 mg/L*	NW Outfall
04/26/2012	Zinc	0.12 mg/L	0.05 mg/L*	NW Outfall

*based on at a receiving water hardness of 25-50 mg/L.

The information in the above table reflects data gathered from River City's self-monitoring during the 2011-2012 and 2012-2013 wet seasons. CSPA alleges that during that wet season and continuing through today, River City has discharged storm water contaminated with pollutants at levels that exceed one or more applicable EPA Benchmarks, including but not limited to each of the following:

- Aluminum – 0.75 mg/L
- Copper – 0.0056 (at a receiving water hardness of 25-50 mg/L)
- Iron – 1.0 mg/L
- Lead – 0.023 (at a receiving water hardness of 25-50 mg/L)
- Specific Conductance - 200 µmho/cm (proposed)
- Total Organic Carbon – 110 mg/L
- Total Suspended Solids – 100 mg/L
- Zinc – 0.05 mg/L (at a receiving water hardness of 25-50 mg/L)

CSPA's investigation, including its review of River City's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards and EPA's benchmark values, indicates that River City has not implemented BAT and BCT at the Facility for its discharges of aluminum, copper, iron, lead, TOC, TSS, zinc, and other pollutants, in violation of Effluent Limitation B(3) of the General Permit. River City was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus, River City is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the numbers listed above indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. CSPA alleges that such violations also have occurred and will occur on other rain dates, including on information and belief every significant rain event that has occurred since January 1, 2011 and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CSPA alleges that River City has discharged storm water containing impermissible and unauthorized levels of aluminum, copper, iron, lead, TOC, TSS, and zinc in violation of Section 301(a) of the Act as well as Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the General Permit.¹

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Permit and the Act. Each discharge of storm water constitutes an unauthorized discharge of aluminum, copper, iron, lead, TOC, TSS, zinc, and storm water associated with industrial activity in violation of Section 301(a) of the CWA. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, River City is subject to penalties for violations of the General Permit and the Act since January 1, 2011 or the date the facility began operations.

B. Failure to Develop and Implement an Adequate Monitoring and Reporting Program.

Section B of the General Permit describes the monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)) and quarterly visual observations of both unauthorized and authorized non-storm water discharges (Section B(3)). Section B(5) requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations

¹ The rain dates are all the days when rain fell as calculated by rain data from a weather station in Fair Oaks, Sacramento County, California, approximately 15.5 miles from the Facility. The weather data can be obtained at (Last accessed on March 27 2014):

http://www.ipm.ucdavis.edu/calludt.cgi/WXSTATIONDATA?MAP=&STN=FAIR_OAKS.A

during each wet season. Section B(7) requires that the visual observations and samples must represent the "quality and quantity of the facility's storm water discharges from the storm event."

The above referenced data was obtained from the Facility's monitoring program as reported in its Annual Reports submitted to the Regional Board. This data is evidence that the Facility has violated various Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations in the General Permit. To the extent the storm water data collected by River City is not representative of the quality of the Facility's various storm water discharges and that the Facility failed to monitor all qualifying storm water discharges, CSPA alleges that the Facility's monitoring program violates Sections B(3), (4), (5) and (7) of the General Permit.

In addition, the Facility's annual reports indicate that visual monitoring of discharges was frequently done on days where no rain occurred. Visual monitoring of discharges on dry days is not a wet weather inspection as required by the permit. River City failed to conduct the wet weather monitoring required by Section B(4) of the General Permit on the following months: October 2011, November 2011, December 2011, January 2012, February 2012, May 2012, November 2012, December 2012, January 2013, February 2013, March 2013, and May 2013. These visual monitoring omissions amount to at least 12 separate violations of the General Permit.

Relatedly, River City's annual reports invariably include checked boxes indicating that visual wet weather monitoring was conducted during every month of the rainy season. However, the visual monitoring logs indicate that no observations occurred during some months. These months include the following:

2013: January, February, March, May
2012: February, May, November, December

These incidents of misreporting amount to at least 8 separate violations of the General Permit's reporting requirement set forth in Section B(4).

Additionally, to the extent that the Facility handles scrap and waste material that may contain pesticides, CSPA alleges that the Facility's monitoring program violates Section B(5)(c) of the General Permit by failing to analyze all storm water samples for pesticides.

The above violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, River City is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since January 1, 2011 or since the Facility began operations.

C. Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan.

Section A and Provision E(2) of the General Permit require dischargers of storm water

associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan ("SWPPP") no later than October 1, 1992. Section A(1) and Provision E(2) requires dischargers who submitted an NOI pursuant to the General Permit to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 1, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices ("BMPs") to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit, Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated annually to ensure effectiveness and must be revised where necessary (General Permit, Section A(9),(10)).

River City's annual reports do not include an adequate evaluation of the SWPPP, documented in Form 5 of the annual report, the "Annual Comprehensive Site Compliance Evaluation Potential Pollutant Source/Industrial Activity BMP Status" ("Form 5"). In the 2011-2012 annual report, Bryan Wilson noted in his monthly visual observations that "[s]traw waddles will be placed at discharge area to contain solid organic matter" but this information was not included on Form 5, and no date of implementation was provided.

The 2012-2013 Form 5 is also deficient. Bryan Wilson signed and dated Form 5 but the form appears to have been partially filled out without any actual evaluations. Form 5 requires a facility inspector to list each potential pollutant source/industrial activity area as identified in the SWPPP, and provide certain information for each source. For each source/activity, the inspector is asked whether any BMPs have not been fully implemented, and whether any additional or revised BMPs are necessary. Every "no" box is checked, on side A and B of River City's Form 5, yet no pollution source or industrial activity is listed, and no other information is provided,

making it appear as though the "no" box was pre-checked, without any actual evaluation. These inadequacies violate General Permit Section A(9).

CSPA's review of conditions at River City and River City's Annual Reports indicate that River City has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. River City has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. On information and belief, River City has been in continuous violation of Section A and Provision E(2) of the General Permit every day since January 1, 2011, or the date the Facility began operations, and will continue to be in violation every day that River City fails to prepare, implement, review, and update an effective SWPPP. River City is subject to penalties for violations of the Order and the Act occurring since January 1, 2011, or since the Facility began operations.

D. Failure to File True and Correct Annual Reports.

Section B(14) of the General Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9), (10). Section A(9)(d) of the General Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

For the previous three years, River City and its agent Bryan Wilson, inaccurately certified in their Annual Reports that the facility was in compliance with the General Permit. Consequently, River City has violated Sections A(9)(d), B(14) and C(9) & (10) of the General Permit every time River City failed to submit a complete or correct report and every time River City or its agents falsely purported to comply with the Act. River City is subject to penalties for violations of Section (C) of the General Permit and the Act occurring since at least January, 2011, or since the Facility began operations.

E. Discharging without a Permit.

In addition to the violations at 8940 Elder Creek Road, CSPA's investigation indicates that River City is discharging stormwater without a permit at its facility located at 721 North B Street, Sacramento, California. Discharging without a permit violates the Clean Water Act and the Porter-Cologne Water Quality Act. General Permit Section C(1). River City was required to obtain a permit at the time industrial activities began at 721 North B Street. River City is subject to penalties for violations of Subsection (C) of the General Permit and the Act occurring since it began operating at 721 North B Street in Sacramento.

III. Persons Responsible for the Violations.

CSPA puts River City, Bryan Wilson, and Gyan Kalwani on notice that they are the persons responsible for the violations described above. If additional persons are subsequently

identified as also being responsible for the violations set forth above, CSPA puts River City Bryan Wilson, and Gyan Kalwani on notice that it intends to include those persons in this action.

IV. Name and Address of Noticing Parties.

The name, address and telephone number of California Sportfishing Protection Alliance is as follows:

Bill Jennings, Executive Director
California Sportfishing Protection Alliance
3536 Rainier Avenue,
Stockton, CA 95204
Tel. (209) 464-5067
Fax (209) 464-1028
E-Mail: deltakeep@me.com

V. Counsel.

CSPA has retained legal counsel to represent it in this matter. Please direct all communications to:

Michael R. Lozeau
Rebecca L. Davis
Lozeau Drury LLP
410 12th Street, Suite 250
Oakland, California 94607
Tel. (510) 836-4200
michael@lozeaudrury.com
rebecca@lozeaudrury.com

VI. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects River City to a penalty of up to \$32,500 per day per violation for all violations occurring during the period commencing five years prior to the date of this Notice of Violations and Intent to File Suit through January 12, 2009, and a maximum of \$37,500 per day per violation for all violations occurring after January 12, 2009. In addition to civil penalties, CSPA will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

Bryan Wilson & Gyan Kilwani
River City Waste Recyclers, LLC
March 31, 2014
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CSPA believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CSPA intends to file a citizen suit under Section 505(a) of the Act against River City and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CSPA would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CSPA suggests that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. CSPA does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Rebecca L. Davis', with a stylized flourish at the end.

Rebecca L. Davis
Lozeau Drury LLP
Attorneys for California Sportfishing Protection Alliance

SERVICE LIST

Gina McCarthy Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Thomas Howard, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Eric Holder, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Jared Blumenfeld, Regional Administrator
U.S. EPA – Region 9
75 Hawthorne Street
San Francisco, CA, 94105

Pamela C. Creedon, Executive Officer
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114

ATTACHMENT A

Rain Dates, River City Waste Recyclers, LLC, Fair Oaks, Sacramento County, California

1/1/2011	5/16/2011	3/1/2012
1/2/2011	5/17/2011	3/13/2012
1/5/2011	5/25/2011	3/14/2012
1/12/2011	5/28/2011	3/15/2012
1/13/2011	5/31/2011	3/16/2012
1/27/2011	6/1/2011	3/17/2012
1/28/2011	6/4/2011	3/18/2012
1/29/2011	6/5/2011	3/24/2012
1/30/2011	6/28/2011	3/25/2012
1/31/2011	8/20/2011	3/27/2012
2/2/2011	8/21/2011	3/28/2012
2/14/2011	8/22/2011	3/29/2012
2/15/2011	9/25/2011	3/30/2012
2/16/2011	10/4/2011	3/31/2012
2/17/2011	10/5/2011	4/3/2012
2/18/2011	10/6/2011	4/10/2012
2/19/2011	10/10/2011	4/11/2012
2/24/2011	10/11/2011	4/12/2012
2/25/2011	11/4/2011	4/13/2012
3/2/2011	11/5/2011	4/14/2012
3/5/2011	11/6/2011	4/15/2012
3/6/2011	11/7/2011	4/16/2012
3/13/2011	11/8/2011	4/17/2012
3/14/2011	11/21/2011	4/18/2012
3/15/2011	11/24/2011	4/19/2012
3/16/2011	11/29/2011	4/20/2012
3/18/2011	12/15/2011	4/21/2012
3/19/2011	1/19/2012	4/25/2012
3/20/2011	1/20/2012	4/26/2012
3/22/2011	1/21/2012	5/25/2012
3/23/2011	1/22/2012	6/4/2012
3/24/2011	1/23/2012	7/23/2012
3/25/2011	1/24/2012	10/21/2012
3/26/2011	2/1/2012	10/22/2012
4/21/2011	2/7/2012	10/23/2012
4/25/2011	2/12/2012	10/24/2012
5/14/2011	2/13/2012	10/31/2012
5/15/2011	2/29/2012	11/1/2012

Notice of Violations and Intent to File Suit

ATTACHMENT A

Rain Dates, River City Waste Recyclers, LLC, Fair Oaks, Sacramento County, California

11/8/2012	3/6/2013	3/10/2014
11/16/2012	3/19/2013	3/26/2014
11/17/2012	3/20/2013	
11/18/2012	3/30/2013	
11/19/2012	3/31/2013	
11/20/2012	4/4/2013	
11/21/2012	4/7/2013	
11/22/2012	4/15/2013	
11/23/2012	5/6/2013	
11/24/2012	5/8/2013	
11/25/2012	5/27/2013	
11/26/2012	5/29/2013	
11/27/2012	6/24/2013	
11/28/2012	6/25/2013	
11/29/2012	9/2/2013	
11/30/2012	9/21/2013	
12/1/2012	11/19/2013	
12/2/2012	11/20/2013	
12/3/2012	11/21/2013	
12/4/2012	12/6/2013	
12/5/2012	12/7/2013	
12/12/2012	1/29/2014	
12/15/2012	1/30/2014	
12/16/2012	1/31/2014	
12/17/2012	2/2/2014	
12/21/2012	2/5/2014	
12/22/2012	2/6/2014	
12/23/2012	2/7/2014	
12/25/2012	2/8/2014	
1/5/2013	2/9/2014	
1/6/2013	2/11/2014	
1/7/2013	2/26/2014	
1/23/2013	2/27/2014	
1/24/2013	2/28/2014	
1/27/2013	3/2/2014	
2/7/2013	3/3/2014	
2/19/2013	3/4/2014	
3/5/2013	3/5/2014	